

DHSS Consultative Document: GREATER SECURITY FOR THE RIGHTS AND EXPECTATIONS
OF MEMBERS OF OCCUPATIONAL PENSION SCHEMES

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DHSS

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INTRODUCTION

1. In February 1977 the then Secretary of State for Social Services asked the Occupational Pensions Board (OPB) "to review and report on the need for any further measures, including, if appropriate, legislative measures, directed to providing greater security for occupational pension rights and expectations". The Board's report (Greater Security for the Rights and Expectations of Members of Occupational Pension Schemes: Cmnd 8649) was published in October 1982. The Secretary of State for Social Services said then, "The Government welcome the recommendations in the Board's report, in particular those concerning the disclosure of information to members. This is one of the most important ways of helping pension scheme members themselves to ensure that their schemes are managed in their best interests - a matter to which the Government attach the utmost importance. The Government therefore accept in principle the need for legislation to regulate this aspect of pension scheme management, and I shall be consulting interested parties about the content of such legislation. In addition a working party of officials is being set up to examine the law and conventions governing the conduct of pension funds". The relevant extract of the Secretary of State's statement is at Annex A.

2. The official working party has now finished this examination. This consultative document gives the background, examines the need for change, sets out the Government's proposals and invites comments. A summary of the main proposals is at paragraph 64. The Government's proposals on early leavers were the subject of an earlier consultative document which was issued on 29 November 1983, and on which the closing date for comments was 29 February 1984.

INQUIRY INTO PROVISION FOR RETIREMENT

3. In November 1983 the Secretary of State for Social Services announced that he was setting up and himself chairing an Inquiry into Provision for Retirement. Its terms of reference are:

"To study the future development, adequacy and costs of State, occupational and private provision for retirement in the United Kingdom,

including the portability of pension rights, and to consider possible changes in those arrangements, taking account of the recommendations of the Select Committee on Social Services in their report on retirement age".

At the same time the Secretary of State made it clear that the Government would press ahead with publishing their proposals on disclosure which are contained in this document.

4. The Inquiry has set up a Sub-Group, also chaired by the Secretary of State, to look specifically at the possibility of making portable pensions more freely available. The Sub-Group has invited written evidence on this subject from representative bodies and individuals and has received some 1500 submissions, which it is now considering. It has also held public sessions, at which oral evidence on portable pensions has been taken. The Secretary of State has said that he hopes to reach conclusions on portable pensions by the spring of this year.

5. The proposals in this document are applicable to existing occupational pension schemes. They do not take account of, nor will they necessarily be applicable to, any new system of portable pensions which the Government might decide to introduce in the light of the Inquiry's work. Advocates of personal portable pensions have argued that their introduction might mean a shift in emphasis from final salary to money purchase schemes and unitisation of occupational pension funds; some have also suggested changes in the rules governing additional voluntary contributions. No conclusion has yet been reached by the Inquiry or the Government on the desirability of developments on these lines; but if they were to occur, the proposals in this document might need to be modified to meet them.

BACKGROUND

6. More than 11½ million people, or over half the country's workforce, are members of over 90,000 occupational pension schemes. Many more have rights to preserved benefits or are pensioners. These schemes play a vital role in providing income in retirement, and the Government Actuary's sixth survey, 1979, shows that since 1971 there has been considerable growth in the number of people who can expect a pension and cover for widow's benefit related to their earnings at or near retirement or death. The importance of occupational

schemes was emphasised by the contracting-out arrangements embodied in the Social Security Pensions Act 1975, which brought into being the partnership between them and the State. There are now more than 10 million people in contracted-out employment.

7. The assets of pension schemes are estimated at well over £100 billion. A pension is one of the biggest investments that people have. Unlike other major investments such as house purchase or insurance, employees are not usually free to shop around for their pension and examine the comparative worth of the different options. Membership of a scheme is in most cases a condition of employment, which means that the pension employees will eventually get is all part of an employment package. To the extent that there continues to be this lack of choice, it is all the more important to ensure that people are aware of their rights and the basis on which their pensions expectations are founded.

8. Public attitudes towards pension schemes have changed over the past few years. What was once regarded as an incentive to long and loyal service is increasingly seen as a right for which employees have contributed. Indeed, many people regard pensions as deferred pay. That being so, it is surprising that more people have not pressed for more information about their pension rights. There is a tendency for people to believe that whatever they have come to expect will, as a matter of course, be delivered. The widespread criticism that has arisen from the treatment received by people who leave pension schemes before retirement (early leavers) and from the failure of many schemes to protect pensioners from the effects of inflation shows the depth of feeling that can be generated by failure to meet all their expectations.

PENSION RIGHTS, EXPECTATIONS AND RISKS

9. Most occupational pension schemes pay members their full entitlement under the scheme rules; and in many cases members' expectations concerning increases for pensions in payment are met. Nevertheless the rights of a member of an occupational pension scheme may not always prove to be quite as good or secure as people imagine. Apart from the Guaranteed Minimum Pension (GMP), the rights of a member of an occupational scheme (that is to say, his legally enforceable rights) do not always include a guaranteed right to be paid the pension which he has been told that he can expect to receive under

the scheme's rules (the pension promise); and he is probably not much better off where they do. He has the protection of trust law but at the end of the day the honouring of the pension promise in full might have to depend on the continuing prosperity of the employer's business.

10. Although the position of certain public service schemes will be different because the benefits are enshrined in legislation, the general position is that a pension fund is a trust fund which is administered by trustees on behalf of the beneficiaries, namely the members. The interests of the members are thus protected, by trust law, in two respects:

- a. the trust fund belongs, in equity, to the members, not the employer; and
- b. the trustees are answerable to the members for any losses due to fraud or other breach of trust.

But this protection is not watertight. If the trustees were to act negligently, incompetently, fraudulently or otherwise in breach of trust, money could well disappear beyond recall, in which cases the members or more probably their employers would have to bear the loss. On the other hand, a deficiency may arise without any default on the part of the trustees, and they cannot, if the scheme is wound up, be required to honour pension promises which exceed the value of the assets held: the level of funding is a matter for the employer and is often at his discretion.

11. Typically a new employee is told that he can expect a pension equal to x per cent of "final salary" for each year of service. This and other benefits are to be financed from the proceeds of investing contributions paid by the employer and, in most cases (either directly or indirectly) by the employee, into the pension scheme throughout the employee's service. The size of the fund depends on the contributions made to it and the investment yield. The combined contribution rates are calculated on the basis of the actuary's assumptions about a range of factors, including the relationship between the rate of return on the scheme's investments and the growth of earnings. The actuary makes a new assessment at regular intervals, normally every three years. If he finds, in the light of experience or changed prospects,

that the scheme's assets are smaller than its liabilities (whether prospective or accrued so far) the combined contribution rate has to be increased; prospective benefits reduced; or the scheme may need to be terminated.

12. Occasionally the employer may have entered into a legally binding commitment to pay sufficient money into the fund or to underwrite the pension promise, in which case he will have a legal obligation in respect of the shortfall. But in practice it makes little difference whether the employer has entered into a legally binding commitment or not. So long as his business is prospering he will very likely top up the fund in accordance with actuarial advice, irrespective of any legal commitment to do so.

13. There are several risks to which an employee's pension rights and expectations may be vulnerable:

a. If the scheme is wound up, for example as a result of the employer's insolvency, or as a result of a take-over, or because the employer is unable to meet the cost of extra contributions needed to top up the fund following changed assumptions or poor investment performance, then the accumulated contributions may not be sufficient to finance the "final salary promise". The employer may, for instance, have promised new back-service rights but have undertaken to fund them over a period of years and at the time of winding-up be unable to fulfil his obligation. The rights of the pension scheme as against the employer are then - apart from any statutory priority accorded to recently-due contributions - no better (and might -if the benefits are not guaranteed by employer's contract -be worse) than the rights of any other unsecured creditor. Where promised rights are not met in full, the scheme's benefit priority rules decide in what order the liabilities are to be met; benefits with low priority may in the end be left unpaid, even though the conduct of employer and trustees has been beyond reproach.

b. The rate of return on the pension fund, after allowing for real increases in earnings, could be less than was assumed at the actuary's last valuation for a variety of reasons, including the possibility that the actuary's assumptions were too optimistic. It may be difficult or even impossible to secure the necessary increase in contribution income; if the scheme is wound up, members' rights are limited to what the assets in the scheme will provide.

c. Increases in private sector pensions in payment are commonly discretionary and it is the practice in some cases to provide them out of ad hoc contributions from time to time by the employer. In this case, the pensioner is dependent on the generosity of his former employer, and there is always the risk that this generosity may cease.

A different kind of risk, namely that an employee leaving his employment early (eg on being declared redundant) may find that his pension rights are frozen until pension age, is not dealt with in this consultative document. This is the subject of the earlier consultative document mentioned in paragraph 2 above.

14. There are four main areas in which Government action might reduce these potential risks, and which therefore merit consideration.

A. Disclosure of information. Many employees are not aware of the nature and extent of their occupational pension rights, or of the possible risks to which their pensions are exposed. Compulsory disclosure of information, to which the Government are already committed in principle, will tend to make these matters better understood. A register of pension schemes, with which the main deeds and documents of schemes would have to be deposited and would thereafter be available for public inspection, would buttress the disclosure requirements.

B. Strength and security. State funding controls (see paragraph 33) could be introduced, or pension guarantees backed by credit insurance against insolvency could be made mandatory.

C. Supervision of pension funds. Schemes could be subjected to supervision by a public Registrar on similar lines to the supervision already exercised over insurance companies, banks and building societies.

D. Clarification of responsibilities. The legal framework for occupational pensions could be amended or clarified.

THE GOVERNMENT'S PROPOSALS

A. DISCLOSURE OF INFORMATION

15. As announced in October 1982, the Government are committed in principle to introduce legislation for greater disclosure of information to employees. Such a measure, stimulating employees' interest in their schemes and enabling them or their representatives to obtain information and explanations in order to satisfy themselves about the running and the finances of the scheme, would of itself tend to discourage malpractices and contribute to the greater security of pension rights. It would enable members to draw attention, either generally or in individual cases, to circumstances where trustees were in breach of their obligations under the scheme, and to press for remedial action; and it would reveal any weaknesses in the scheme rules or organisation, which could be taken up in negotiation with the employer. It would also increase the extent of public knowledge and interest in occupational schemes, and it would provide the facts on which informed discussion of schemes could be based.

The information to be disclosed

16. The Government have considered very carefully whether the information which the law would require to be disclosed should be sufficiently detailed for full expert analysis, or whether it should be limited to the sort of information which could be presented to members of pension schemes in leaflets of sufficient brevity and attractiveness to make it likely that they would be read by them. They have decided that the requirement should be that sufficient information must be disclosed to enable an expert pension adviser to penetrate the complex data which go to make up the complete picture of the scheme and its financial soundness. The Government therefore propose that the following information should be provided:-

Annual Reports

13.7 ✓
(a)

A statement of the financial basis of the scheme's benefits (eg funded; insured; whether particular benefits are insured; how pension increases are financed).

- (i) Audited annual accounts of income and expenditure and of the end-year
(i)13.7 state of the fund with comparison with the previous year. A statement
(b)
(ii)? whether the rate of contribution recommended by the actuary has been
maintained.

- 13.7(b) The auditor's report, including a summary statement of scheme assets and
Ch.10 a note of the extent of any self-investment or other concentrations of
investment of more than 5 per cent of the assets.

- A breakdown of the assets, at market values as far as possible, showing
insurance policies, unit trusts, gilts, equities, debentures,
13.7(c) convertibles, loans and properties separately and listing any investment
exceeding 5 per cent of the assets. There should also be separate
disclosure of self-investment, and investment not in sterling, by the
same categories.

A statement of any borrowing or guarantees given.

- An actuarial statement which must be renewed at least every three years,
13.6 showing a comparison between the scheme's current assets and its
13.7(d) liabilities based on current salaries and service to date and also
6.22 covering the long-term funding outlook. The statement would give brief
(c) details of the actuary's methods and assumptions.

The names of investment managers and their remuneration.

Other Information

- 13.7(b) A record of past increases to pensions in payment and preserved pensions
4.7 for, say, the last five years.

Other aspects of the treatment of early leavers including the basis of
calculation of transfers (if made) and the arrangements for refunds of
contributions.

Details of trustees and where they can be contacted.

Members' rights to information (eg about trust deed and scheme rules,
annual report).

4.5

Individual benefit statements for members, early leavers, people retiring and other beneficiaries.

13.6

17. Different considerations apply in the public service field where many schemes derive from statutory provisions, are subject to Ministerial control and are financed from public funds. There will not, therefore, be the same concern about the security of benefits. Also the schemes are often unfunded and there is not the same need to require the disclosure of information on funding and accounts. The Government take the view that the detailed provisions of the legislation will need to take into account the special position of public service schemes.

18. The disclosure requirements are set out in more detail at Annex B. They are generally in line with the recommendations of the OPB in their 1982 report. They will not prevent the issue of simpler brochures etc to scheme members. Indeed, the Government commend the production of such brochures to schemes which do not already produce them because they are of great value to scheme members. There is, though, no proposal to require such brochures by legislation; the production and presentation of salient points in an easy-to-read brochure is very much a skilled matter, and unsuitable for legislation.

Problems of small firms

19. The Government recognise the need to keep to a minimum any additional burdens on small firms. The legislative requirements indicated above will impose some extra administrative burden on them if they have to cope with all of them from their own resources. In practice, though, it is suggested that this burden, while obviously greater where disclosure standards have previously been low, will not be as great as it might at first sight appear: nor will it fall entirely, or often mainly, on the small firm's own resources.

2.2(d)

11.11

All individual pension arrangements which are framed so as not to be extensible to cover other members will be excluded from the requirements. Individual arrangements not covered by this exemption will, in the main, be small discretionary schemes for controlling directors, for whom the requirements should not be unduly onerous. Money purchase schemes (ie schemes based on defined contribution input, where the benefits depend on what the contributions earn) will not need to provide the proposed actuarial valuation statements, which are the most complex and costly of the proposed

requirements, because the contribution is fixed and there are no benefit rights to value.

- 11.6 20. For other small company schemes, the disclosure requirements could be argued to present more of a burden, but it is considered that the extra cost over and above what is already needed to obtain tax approval and run the scheme properly should not be excessive. The typical cost of auditing a pension fund is several hundred pounds, depending on its size, and the cost of actuarial assessments spread over the years is similar. But some of these costs have to be met by schemes already, at least if they are being run properly, and it is difficult to see how the trustees and managers of any scheme can effectively discharge their responsibilities for running the scheme efficiently without access to reliable and regular accounting and actuarial data. Thus, except where the accounts had not been audited or there were inadequate records etc, the additional cost of disclosure should be marginal for small schemes.
- 11.6✓ 21. The Government therefore do not propose to exempt small schemes from the disclosure requirements. It can in fact be argued that it is in these schemes that members stand in most need of more information affecting their rights,
- 11.5✓ because such schemes operate on smaller reserves and cannot spread risks in the same way as larger ones.

Implementation and form of legislation

22. The Government propose to take regulation-making powers. This will enable the detailed requirements to be set out in regulations which can be amended as necessary in the light of changes in circumstances, emerging needs and developments in professional standards and practices.

23. The power could enable the requirements to be framed in such a way as to override any contrary provisions on disclosure in individual trust deeds, to relieve schemes of the need to rush through the detailed work of complying with the formal requirements of amending their rules. Schemes could then amend their rules at leisure. This is as recommended by the OPB. Comments would be appreciated.

24. The need to involve the accountancy and actuarial professions in the

detailed accounting standards and guidance is recognised. The Government will therefore consult separately with their representatives when the regulations are being drafted.

Redress and sanctions

25. Individual members' remedies for non-compliance with the disclosure requirements would be the same whether or not those requirements had been written into the scheme in question. Apart from this, they would correspond to those already available for non-compliance with other statutory requirements (for example, on preservation or equal access). In the first place, the individual would be expected to make an approach to the trustees, either directly or through a union, staff association or other representative, which one might expect to be successful in most cases. If he failed to get satisfaction, the expense of legal procedures might be avoided in some cases if there were a counselling service available to assist where disclosure of the required information could be obtained by informal contacts between experts.

26. If an approach to the trustees or informal contacts did not produce the desired information, the member, perhaps supported by his trade union, would generally have the right to take legal proceedings. This would take time and incur costs, but would probably only rarely be necessary on a matter like failure to disclose required information. The civil remedy would be a Court order to compel disclosure of information. In addition, members would be entitled to sue the trustees for any loss occasioned by their default, and to have incompetent trustees replaced by Court order.

27. The threat of Court action would probably generally suffice to secure the disclosure action being sought. But Chancery proceedings tend to be expensive, and contested proceedings for, say, the removal of trustees or for damage for breach of trust involve heavy initial expenditure and often considerable delay. Comments are invited about possible alternative methods of redress and alternative sanctions, and in particular whether arbitration has a role to play here.

Scheme register

28. In their 1982 report the OPB recommended that as a minimum there should be a tracing register to assist early leavers, who might otherwise have difficulty in tracing a scheme to which they had belonged in the past, to keep in touch with their pension rights. An earlier recommendation of theirs (1975) in favour of a fuller registration system had been left aside by the then Government on the grounds that the manpower requirements of such a system would be out of proportion to the benefits obtained. The present Government have reconsidered the matter, and now propose that there should be a requirement that pension scheme deeds, rules, annual reports etc should be deposited with a Registrar. A fuller register of this nature:-

- i. would help to secure the widest possible compliance with the disclosure requirements;
- ii. would give employees better access to such information in the face of unco-operative or dilatory employers;
- iii. would act as a more powerful deterrent to fraud or negligence than would disclosure on its own (it is assumed that all the crucial scheme documents and annual reports would be available to anyone who wanted to inspect them, subject to exceptions on grounds of privacy such as already apply under the Companies Act disclosure requirements);
- iv. would facilitate comparison between schemes by individual members, and enable serious public comment to be made through the issue of reliable data (eg on investment policy and practice);
- v. would encourage and facilitate the spread of "best practices" in pension provision;
- vi. would give the Government a more reliable source of statistical data on a wide variety of pension matters.

13.8✓ 29. The Government now therefore propose to set up a deposit register. There will clearly need to be sanctions in the event of non-compliance with the deposit requirements. It is proposed that, as a condition of being granted

3.2✓

tax approval, schemes should be required to register. It is thereafter proposed to place upon trustees the responsibility for submitting the documents periodically required by the Registrar. Failure to do so would result in the imposition on trustees of a financial penalty of a fixed amount for every day that the documents are overdue. These penalties would not be recoverable from the fund administered by the trustees. Trustees may however be heavily dependent on professional advisers to produce the required documentation. Equally the Government recognise the advantages of member participation in schemes, and do not wish to discourage members from becoming trustees. Comments are therefore invited on what protection should be given to trustees who fail to comply because of circumstances beyond their immediate control. Ultimately if schemes fail to comply there will be power for the scheme to be compulsorily wound-up. These sanctions would be separate from, and without prejudice to, the sanctions available to scheme members for non-disclosure described in paragraphs 25-27.

30. Every endeavour would be made to keep the cost of compliance with registration to the necessary minimum. Schemes will be required to send to the Registrar the documents which they will already have prepared to comply with the disclosure requirements. It is proposed that the administrative costs of this deposit register should be met by charging registration fees similar to those charged for company registration. There, fees are charged by the Registrar for the initial registration of a company, for the filing of annual returns and for searches. These fees are pitched at a level which ensures that the registry does not operate at a loss.

B. STRENGTHENED SECURITY

31. It would be possible to legislate to increase the security of the pensions rights in defined benefit schemes, either

- a. by imposing funding controls, or
- b. by requiring the employer to guarantee the pension rights, probably by placing him under a statutory liability to meet all accrued pension liabilities on a winding-up and compelling him to take out credit insurance to meet any liabilities not covered by resources in the event of bankruptcy or insolvency.

The Government are not however proposing any legislation of this nature, for the reasons given below. This does however make it all the more important that members of pension schemes should be informed about the limitations to which defined benefit pension rights are subject, as recommended in paragraph 58 below and about the matters listed in paragraph 16 which disclose the actual security for their prospective benefits.

Funding controls

32. Control of funding levels would impose constraints on the bases and assumptions underlying actuarial valuation reports and funding certificates. The aims would be to reveal the extent (if any) to which liabilities were underfunded against a set standard level of funding, and to limit the period over which retrospectively-improved rights must become fully funded.

33. A new system of funding controls would generate a substantial amount of extra work, the value of which would not necessarily be universally accepted. Actuarial bases, methods and assumptions would have to be worked out centrally and prescribed. Standards would need to be established which were accepted and workable and which were sufficiently flexible to allow for different kinds of scheme, but rigid enough to secure uniformly satisfactory standards. Past service liabilities and emerging deficiencies would have to be catered for. Despite all this, however, adverse claims or investment experience or unavoidable wind-up before all past service liabilities had been covered would still leave insolvent employers and wound-up pension funds unable to meet all pension promises.

34. The results of imposing funding controls cannot be foreseen with precision, but they are likely to be mixed. In some cases the remedy could ultimately prove worse than the ailment. Experience of corresponding problems overseas does not necessarily lead to the conclusion that funding controls would prove sufficiently valuable in this country, in the absence of evidence of significant abuse or malpractice.

Employer liability on winding-up, supported by credit insurance

35. Under this course, the employer would, in all defined benefit schemes, be

placed under a statutory liability to meet all accrued pension liabilities on winding-up, but would be compelled to take out credit insurance against the contingency of bankruptcy or insolvency to meet at least all the liabilities recognised by the actuary as not yet fully funded. The legislation might not need to impose funding controls at the same time, but the insuring institution might need to exercise some controls of its own. The possibility of setting up a system of credit insurance in the UK, probably by a private sector consortium, was discussed in Appendix 3 of the OPB's 1982 report.

36. Here again, a complicated administrative mechanism, implying a fairly high degree of intervention, would be imposed on the pensions movement in advance of there being evidence of the sort of malpractice which would justify it. The employer would have to accept a legal, in place of a moral, commitment of unknown amounts of future resources to support a guarantee in employment contracts, with credit insurance coming to his rescue only if his whole business became insolvent. This would put employers with company pension schemes into a much tighter financial straitjacket than at present. It does not yet seem to have been demonstrated that this system would be preferable to the present concept of a trust backed by a moral duty to help as far as possible.

C. SUPERVISION OF PENSION FUND MANAGEMENT

37. Whenever somebody deposits money with a financial institution he is placing his trust in the competence and honesty of those who will invest on his behalf. The owner of the assets rarely has the knowledge to judge the competence of those who manage the funds entrusted to them or the opportunity to monitor effectively their day-to-day efficiency or honesty. There is potential scope for managers to make secret profits from commissions or to defraud the owner of the assets in some way.

38. There are safeguards which seek to reduce the exposure of members of the public to risks of this sort. The nature of the safeguard varies with the type of institution concerned. Some institutions - in particular banks, building societies and insurance companies - are subject to statutory supervision by public sector agencies, who grant authority to carry on business and then monitor in one way or another that business as a whole is carried out with due prudence and responsibility. The regulating agencies

also have the power and resources to intervene and investigate in some detail when things appear to be going wrong. There are also compensation arrangements, financed by the institutions which are supervised. These to some extent protect depositors and policyholders from the consequences of any failures that may occur in spite of supervision.

39. The majority of pension schemes are not subject to prudential supervision but, because most members belong to large contracted-out schemes, the statutory pension rights of most occupational pension scheme members are subject to some limited financial supervision by the OPB. About 10 million employees (nearly 90 per cent of all occupational pension scheme members) belong to contracted-out schemes.

40. The OPB's responsibilities in relation to financial supervision of contracted-out pension schemes are not designed to ensure their overall solvency or the competence of those managing the scheme funds. The sole concern of their supervision is to ensure that the scheme's resources would be sufficient, in the event of its winding up, at least to safeguard the GMPs and all the benefits to be accorded priority under section 40(3) of the Social Security Pensions Act 1975 and the related regulations.

41. The OPB's supervision is carried out:

- i. by requiring the submission of periodic actuarial certificates in which the scheme's actuary confirms that the resources would be sufficient to meet those liabilities, subject to the payment of employer's and employees' contributions at the assumed rate (normally a rate based on the funding rate considered by the actuary as satisfactory for the liabilities of the scheme as a whole); and

- ii. by means of annual statements confirming the payment of contributions - or, in the case of insured schemes, the payment of premiums - at that rate.

Self-administered schemes are also required both to confirm that annual accounts have been prepared and audited, and to make statements concerning the degree of self-investment or concentration of investment.

42. In practice the sanction which the OPB use most frequently is the cancellation of contracting-out certificates but, where a scheme has ceased to contract out, they have powers in limited circumstances to require employers to augment pension scheme resources and, if necessary, to order that the scheme should be wound up.

43. Where pension funds are managed by licensed dealers in securities, the latter are required to comply with rules made under the Prevention of Fraud (Investments) Act, which have recently been tightened up, for example, to secure separation of clients' funds and greater openness of dealing. Other funds, however, are managed by banks which are exempted from these rules, although they are expected to apply comparable safeguards. Funds managed by authorised insurance companies are also subject to insurance supervision, whether or not the management contract is strictly speaking a contract of insurance. But there is no specific control of other exempted dealers and no self-regulatory code. Stock Exchange scrutiny of stockbrokers who manage funds does not extend to any specific rules. Funds managed "in house" by the trustees or their employees are subject to no scrutiny. In respect of all these kinds of fund managers the only supervision of funding is that carried out by the OPB in relation to contracted-out schemes.

44. In practice virtually all pension scheme funds are subject to the safeguards of trust law which require trustees to give primacy to the interests of the beneficiaries and to adopt prudent investment policies. The requirements of trust law are admirable, but their enforcement becomes the duty of the Chancery Division only if the latter is moved by an aggrieved party to seek it; and the costs and delays involved can be substantial.

45. The preceeding paragraphs show that there is no comprehensive supervisory machinery for pension funds. All funds are subject to trust law which members may enforce by proceedings in the High Court if they are prepared to meet the risks of litigation. Some funds are managed by licensed dealers in securities who are required to observe the standards set out in the Licensed Dealers' Rules. More are managed by "exempted dealers" who are "expected" to observe standards no less exacting. Some are managed by stockbrokers who are subject to the scrutiny of the Stock Exchange but not to any explicit code or rules

specifically concerned with pension funds. About 15 per cent of schemes (ie those contracted out, representing 90 per cent of all schemes members) are subject to supervision by the OPB but only for the purpose of seeing that they are financed on a scale which makes it possible for them to provide GMPs. The pension funds accordingly are in a very different position from other major financial institutions handling comparable sums of money on behalf of the public.

46. It is not proposed to set up supervisory machinery comparable to that applied to banks, insurance companies or building societies, partly because the number of schemes is enormously greater. (There are only some hundreds of banks, insurance companies and building societies, whereas there are nearly a hundred thousand pension funds.) Another reason is that the protection of the pensioner and the potential pensioner does not require a comparable system since the employer has an important interest in ensuring the efficient operation of a fund in order to limit his own contribution to it. The employed members moreover (though not past employees) normally have some capacity for exercising collective pressure on the trustees or the employer to maintain adequate operating standards.

47. The number of pension schemes that have become insolvent through the failure of those in charge has been very small. There is no evidence for concluding that a larger number of failures is likely in the future. The Government accordingly do not propose to establish a direct regulatory regime for pension funds by statute at this stage.

48. The Government have however published the Review of Investor Protection by Professor L C B Gower (Command 9125) which proposes that all those who are professionally engaged in the management of investments should be registered, either with a government department or with a self-regulatory agency. Professional managers of pension funds would clearly fall within this category. Professor Gower also recommends that employees of a company who manage or advise on investments for the trustees of the company's pension fund should be registered (Recommendation 12). All those registered by either method would be required to comply either with statutory rules designed to protect the investor or with the rules of the self-regulatory agency which would have at least equivalent effect for the same purpose. No decision has been taken yet as to whether the proposals put forward by Professor Gower

should be implemented in legislation. Comment on his proposals has been invited to the Department of Trade and Industry by 30 April 1984. Those who are concerned with the management of pension funds are in particular requested to make their views known. If the Gower proposals are implemented, those managing investments will be required to show that they are "fit and proper persons" for the purpose and to comply with rules which minimise the risk of conflicts of interest and duty and the taking of secret profits. Enforcement would be either by a government department if investment managers were directly registered or by a self-regulatory agency. A full statutory or self-regulatory regime for pension funds might well, of course, need to concern itself with matters over and above the investment management requirements consequent on the acceptance of the recommendations of the Gower report, for example, compliance with trust law and, perhaps, the adequacy of scheme resources.

D. CLARIFICATION OF RESPONSIBILITIES

Concern

49. Criticisms have been made about the present legal framework governing pension schemes. Queries have been raised about the legal rights of members of pension schemes, and about the relationship of those rights with the rights and obligations of the other parties concerned, in particular of the employer and the trustees. Concern has also been expressed about the extent to which the present law adequately safeguards members' rights. This concern has been expressed in several recent reports. The Wilson Committee reviewed the various statutory provisions governing the prudential regulation of pension schemes in their 1980 report and recommended a new legal framework in a Pension Scheme Act. Professor Gower supported the case for legislation in his 1982 discussion document. The OPB in its 1982 report discussed the need to look more closely at the legal and financial framework governing pension rights.

50. The OPB report referred to the Law Reform Committee's concurrent review of powers and duties of trustees. As the OPB envisaged, the Committee's report in October 1982 did not make any recommendations relating specifically to pension schemes. The Committee said that the very real problems relating to pension schemes were not basically problems of trust law and that most if not all of the important suggestions made to them for reform could easily be written into the trust instrument as a matter of contract.

The existing legal framework

51. The legal framework governing pension rights (leaving aside certain public service schemes) rests mainly on trust law, supplemented by a number of additional provisions, which have been described and discussed in the reports referred to above. Taken together, they make up a complex pattern of relationships between the employer and his employees, between the employer and the trustees and between the trustees and the members of the pension scheme. Appendix 5 to the OPB's 1982 report usefully summarises the position of trustees and beneficiaries under English trust law.

52. As between employer and employee, employment protection legislation requires the employer to give new employees, within thirteen weeks of their starting work, a written statement about the main terms of employment, including any terms and conditions relating to pensions and pension schemes. The statement does not constitute part of the contract of employment, but it can be used as important evidence as to the terms and conditions of an unwritten contract. The law permits the employer to discharge this legal obligation by referring the employee to a booklet describing the pension arrangements; but the employer is not required to make it clear whether the pension promise is a conditional one and if so on what it depends, or to what extent it is enforceable as a term of the contract of employment. Whether the employee's pension rights are enforceable as a term of the contract of employment will depend on the contract itself, regardless of whether it is in writing or not. In general, neither the contents of the pension booklet nor the trust deed which usually governs the pension scheme are terms of the contract of employment and the extent if at all to which they commit the employer is therefore unclear.

53. The decision to set up a pension scheme is taken by the employer, usually after consultation with his employees and their representatives. The decision to wind it up can also be taken by the employer. The rules are generally drawn up to reflect the employer's wishes. The employer normally decides whether membership is to be compulsory for whatever category of employees the scheme is to cover; and in most cases he decides that it is.

54. As between employer and trustees, pension schemes are set up and administered under trust law. The purpose is to alienate in a legally unassailable and irrevocable trust the funds set aside for pension provision, so that they are held separate from other assets (eg of the company) and

cannot be diverted for other purposes. One or more trustees, usually appointed by the employer, administer the scheme in accordance with the provisions of trust law and of the terms of the trust deed governing the particular scheme. The terms of the trust generally give the trustee wider powers, particularly in the matter of investment and investment management, than they would otherwise have under the provisions of the Trustee Act 1925 and the Trustee Investment Act 1961.

55. As between employee and trustees, once an employee has become a member of a pension scheme, his rights and obligations lie as a matter of law between the trustees and himself, because the trustees are legally obliged to administer the trust in the interests of all members. In practice, however, matters are not as simple as that. As the employer normally accepts at least a moral obligation to meet any emerging deficits in the scheme, and as it is largely considered to be up to the employer whether he makes any other additional contributions which might be considered appropriate (eg to finance post-retirement increases), he expects to be consulted, if not already closely involved, in certain decisions of the trustees - eg on investment. There is in fact nothing to debar the employer from being one of the trustees or even the sole trustee; and the trustees can be and often are his nominees or under his control, though this does not affect their legal duties. In the larger schemes, trustees are assisted by professional advisers and may employ professional managers (eg to handle investments).

56. The main problems here lie in:-

a. the lack of clarity of definition of the legal rights and obligations of employers (who are closely involved in all the stages of establishing and running a pension scheme), employees, members, trustees and their professional advisers, especially where there is a potential source of conflict of interests (for example, where the trustee is the employer or one of his subsidiary companies or one of his directors or senior managers);

b. the fact that trust law, which creates a relationship between trustees and members as beneficiaries, makes no particular provision for the day to day administration of pension schemes, where the closest relationship is often between trustees and employers.

Definition of pension rights

57. The various relationships analysed above are complicated and vary from scheme to scheme. Pension rights are not simply a matter between the scheme and its members, or of the members' relationship with the trustees. As we have seen, the employer has the dominant voice in most of the decisions (ie whether to have a pension scheme, whether to wind it up, whether to use it to contract out of part of the State pension scheme, which employees are to be covered by it and in what way and whether employees are to be required to join it if they work for him) even though he may consult his employees and their representatives about some or all of these decisions. Pensions are generally regarded as one of the most important aspects of the relationship between employer and the employees, but they are often not part of the contract of employment. The only obligation on an employer to consult his employees at present is on his decision to contract out. It is true that many employers meet any emerging deficits in the fund by increasing their contributions, so that members' expectations are not disappointed; but this is generally under a moral rather than a legal obligation.

New protection for employees

58. The Government believe it unsatisfactory to leave this basic aspect of contract so unclear. They therefore propose to amend the employment protection legislation to require employers to inform employees what their pension rights are and the extent to which they form part of the contract of employment and are thus enforceable against the employer like other contractual terms. Employers will be able to do this in the written statement of the terms of employment or by reference to the pension scheme booklets, provided that there is a clear explanation of the employees' legal rights and their limitations. If the employer fails to comply with the new requirement, the employees will have the right to bring a complaint to an industrial tribunal. The tribunal will have the power to determine what particulars should be included or referred to in the written statement.

Trust law

59. There have been calls for trust law in relation to pension schemes to be replaced by a new Pensions Act. Opinion now however seems to have moved

substantially in favour of retaining trust law as an appropriate legal basis, provided that it is clarified so as to remove ambiguities and unsatisfactory aspects, and to fill identified gaps.

60. After careful consideration, the Government are satisfied that trust law provides a suitable framework for regulating the conduct of pension schemes. The use of trust law emphasises the need to administer such schemes in the interests of members and beneficiaries. The flexibility and protection of trust law have allowed pension schemes to be tailored to the differing circumstances of individual firms and employments. The main criticism here may be that the powers given by the trust document may be so elastic that they could conceivably provide scope for a scheme to be run to the prejudice of members' interests without their knowing what is going on. The proposals on disclosure of information will go a long way to remedy this state of affairs and, once armed with the necessary knowledge, members will be able to pursue the trustees or their employer, as appropriate, to correct any defects revealed. The Gower proposals if adopted would also provide safeguards.

13.10 61. There seems to be general agreement that a number of points in the existing law need clarification or amendment. The Government accept the need for such change, but do not aim to remedy every conceivable lacuna or minor defect in the present situation. There are obvious disadvantages in over-regulating. The Government wish to seek the views of all those concerned with pensions before formulating detailed proposals for clarifying or amending legal rights and responsibilities. The points on which views would be particularly welcomed are as follows:

61.1 Role of employer vis-a-vis the trustees

61.1.1 There are arguments in favour of legislation prohibiting the employer from being the sole trustee of the pension scheme. Would there be any serious objection to such a prohibition? If not, the Government would seek to legislate accordingly.

61.1.2 There are also arguments against having a sole corporate trustee which is under the employer's control; views are however invited whether a prohibition of this practice would cause difficulties for schemes.

61.1.3 A key issue is the responsibilities of an employer in relation to his pension scheme once a trust has been established, and, in particular, what his rights are vis-a-vis the trustees over their management of the funds entrusted to them. An employer with a final salary scheme has a considerable practical stake in the fund and its management, because of his contribution obligations, his frequent (and laudable) aim to maintain the purchasing power of pensions in payment, and his moral, if not legal, undertaking in many cases to top up the fund to meet any emerging deficits. But he hands over his legal responsibilities to the trustees when he sets up the scheme. The members' rights as beneficiaries are the primary consideration. The statute might well make it clear that the employer's reversionary interest, if any, in any residue does not in itself entitle him to a voice in the management of the scheme, in his capacity as a potential beneficiary; comments on this proposition would be welcomed. For final salary schemes, it would be left to the trust deed and/or scheme rules to determine the extent of employer representation on trustee bodies supervising investment. If there are cases where the employer considers he has an inadequate voice in investment strategy in relation to his potential residual (moral) liability, the question arises whether the statute should empower him, for example, to apply to the OPB for authority for a rule modification if this is the only way to ensure his adequate representation on the trustee body supervising investment. Views on this would be welcome. Professor Gower's comments may be relevant.

61.1.4 The trustees would be responsible for supervising investment of pension fund monies, for securing adequate expert management of investments, and for settling the extent of delegation of investment decisions to experts. There is some body of law on this already, but it may be amended in the light of the Gower proposals.

61.1.5 In general, the employer is responsible for paying to the trustees all his contributions, and all employees' contributions which he has deducted from pay or otherwise received. The trustees are responsible for drawing to the employer's attention any shortfall in due contributions or any emerging deficiencies; and, if the employer does not take satisfactory action to deal with such shortfalls or deficiencies, for informing employees of the position. These

responsibilities are thought however generally to emerge with sufficient clarity from scheme rules, from existing law and from the proposed disclosure measures, and no special legislative clarification seems called for.

61.1.6 If the employment or any other contract, or the trust deed or any scheme rule, lays on the employer the liability to guarantee that sufficient money is made available to trustees to pay all benefits to which a right has arisen or will arise, the legislation would make it clear that liability would be treated in the same way as a liability for unpaid wages, with the same priorities on an insolvency (without prejudice to existing provisions in Schedule 3 to the Social Security Pensions Act 1975 and in the Employment Protection (Consolidation) Act).

61.1.7 This still leaves the problem of facilitating adequate member participation where commercial organisations (such as life offices, pension consultants, brokers, consulting actuaries, merchant banks) act as sole trustees. If and where this happens, the Government will look to those organisations to encourage and maintain a reasonably strong participative role for members. Comments are sought on the proposition that legislation should enable trusts to be modified, on OPB authority, so as to facilitate or improve such arrangements.

61.2 Powers and duties of trustees

61.2.1 The trustees have the duties of carrying out the terms of the trust, of acting prudently, reasonably and in good faith, of paying the stipulated benefits (and exercising any discretion over other payments) and of keeping proper accounts. They are legally liable for the management of pension fund investments, although - as indicated above - in practice this is undertaken in most schemes by professionals or by insurance or investment management companies. It is common for pension scheme trust deeds, however, to exempt a trustee from liability for breach of trust or to give him a right to be indemnified out of the trust fund, provided in either case that there has been no dishonesty on his part. The validity and, indeed, desirability of such provisions have been called in question. The Government do not however want to frighten off many potential trustee candidates by the threat of heavy penalties

for any mistake, and do not propose to impose any new restrictions for trustees who provide their services for no reward other than expenses. As regards the professional or other trustee who is paid for his services, there seems a strong case for prohibiting such exemption or indemnification. Views on this would be welcome.

61.2.2 It is also for consideration whether trustees who, without express authority in the terms of the trust instrument, delegate the management of investment to an outside agent, should be liable to the members for any loss caused by misconduct or default on the part of the outside agent so engaged. It does not seem reasonable for the trustee to have absolute liability for all the acts of his delegated agent (except where he has delegated his authority by power of attorney under section 25 of the Trustee Act), but the statute might well provide that the trustee who is not otherwise indemnified should escape absolute liability only where it was reasonable for him to employ an agent and where he has taken reasonable steps to engage a competent one. Views on such a provision would be welcome.

61.2.3 Inland Revenue require small self-administered schemes to appoint a special 'pensioner' trustee before the scheme receives approval. His function is to block any request by members for the termination of the scheme otherwise than in accordance with the approved winding-up rule. A provision barring such a termination, except when ordered by the Courts (or perhaps when advised by Counsel) would remove the need for pensioner trustees. Views on such a provision would be welcome.

61.2.4 It seems essential that a pension scheme should have a separate bank account from that of the employer, belonging solely to the scheme and operable only by the scheme trustees, to prevent the funds being mixed with the employer's or lost on his insolvency. This should be clearly laid down in law. The OPB have recently informed schemes that in future it will be a contracting-out requirement that separate bank accounts should exist.

61.2.5 It seems desirable that trustees should be obliged to furnish annual up-to-date lists of their names and where they can be contacted in any information which they are required to provide under the proposals on

disclosure, so that vacancies are known to members and others concerned such as life offices as they occur and action can be taken in good time to fill them.

SCOTLAND

62. The law in Scotland is different in certain relevant matters from that in England and Wales. Whatever is decided on as a matter of general policy in these fields, the desired reform of the law will need to apply in Scotland as well as in the rest of Great Britain. This is under examination now. Any comments on application to Scotland would, again, be welcome.

NORTHERN IRELAND

63. Although the proposals contained in the consultative document do not extend formally to Northern Ireland, the well-established principle of parity between Northern Ireland and Great Britain in social security matters would require consideration of corresponding changes to the Northern Ireland law. Accordingly views on the proposals in the document are welcomed from Northern Ireland interests.

SUMMARY OF PROPOSALS

64. The main proposals in this document are summarised below. They do not take account of, nor will they necessarily be applicable to, any new system of portable pensions which the Government might decide to introduce in the light of the work of the Inquiry into Provision for Retirement. No conclusion has yet been reached by the Inquiry or the Government on the desirability of developments on these lines; these proposals may therefore need to be modified to meet them.

DISCLOSURE OF INFORMATION

1. Occupational pension schemes would be required to make available to all members annual reports and other information. The information should be sufficient to enable an expert pension adviser to form a complete picture of the scheme and its financial soundness (paragraph 16 and Annex B).

13.6 2. The detailed provisions of the legislation will need to take into account the special position of public service schemes (paragraph 17).

3. There would be no statutory requirement on schemes to produce simple brochures for members, although the Government commend the production of such brochures (paragraph 18).

11.6 4. All individual pension arrangements which are framed so as not to be extensible to cover other members will be excluded from the requirements. Money purchase schemes will not need to provide the proposed actuarial valuation statements (paragraph 19). Small schemes will not be exempted from the disclosure requirements (paragraph 21).

5. It is proposed to take powers to enable the detailed requirements to be set out in regulations which can then be amended as necessary. As the OPB recommended in their 1982 report the requirements would be framed so as to override scheme rules and thus relieve schemes of the need to rush through rule amendments; comments on this are invited (paragraphs 22 and 23).

6. Representatives of the accounting and actuarial professions will be consulted separately about the detailed accounting standards and guidance when the regulations are being drafted (paragraph 24).

7. Individual members' remedies for non-compliance would correspond to those already available for non-compliance with other statutory requirements (paragraph 25). Comments are invited about possible alternative methods of redress or sanctions (paragraph 27).

13.8 8. A deposit register would be set up. Schemes would be required to deposit pension scheme deeds, rules, annual reports etc with the Registrar (paragraphs 28 and 29). Non-compliance with this requirement would result in financial sanctions being imposed upon trustees; comments are sought on how trustees might be protected if their professional advisers failed to produce the necessary information (paragraph 29).

9. The administrative costs of the register would be met by charging registration fees (paragraph 30).

STRENGTHENED SECURITY

The Government are not proposing to legislate to impose funding controls, or to place any statutory requirement on the employer to guarantee pension rights, or to compel employers to take out credit insurance (paragraph 31).

SUPERVISION OF PENSION FUND MANAGEMENT

1. The Government do not propose to establish a direct regulatory regime for pension funds by statute at this stage (paragraph 47).

2. The Review of Investor Protection by Professor Gower proposes that all those who are professionally engaged in the management of investments should be registered either with a government department or with a self-regulatory agency. No decision has yet been taken as to whether these proposals should be implemented in legislation; those concerned with the management of pension funds have been particularly requested to make their views known to the Department of Trade and Industry by 30.4.84 (paragraph 48).

CLARIFICATION OF RESPONSIBILITIES

1. The employment protection legislation would be amended to require employers to inform employees what their pension rights are and to what extent they are enforceable under their contract of employment. Failure to comply would give employees the right to bring the complaint to an industrial tribunal, which would have power to determine what particulars should be included or referred to in the written statement (paragraph 58).

2. The Government are satisfied that trust law provides a suitable framework for regulating the conduct of pension schemes (paragraph 60). There are, though, a number of points in the existing law that need clarification or amendment. The Government accept the need for such change, but do not aim to remedy every conceivable lacuna or minor defect in the present situation. Comments are invited to assist in formulating detailed proposals. Views on a number of points relating to the role of the employer vis-a-vis the trustees and the powers and duties of trustees are sought (paragraph 61).

COMMENTS

65. The Government would welcome comments on the proposals in this consultative document. Comments should be sent to Mr G Franks, DHSS, Room 412, Friars House, 157-168 Blackfriars Road, London SE1 8EU by 31 May 1984.

66. It would assist the Department considerably if constituent members of representative bodies could put forward their views to the representative body to which they belong so that that body can, in turn, co-ordinate views and put forward its collective view. Further copies of this document are available on request by telephoning 01-703-6380 extension 4156.

Tuesday 19 October 1982
Written Answer

Han Ref Vol 29
Col 71

OCCUPATIONAL PENSIONS BOARD REPORT

Mr Robert McGrindle (C. Brentwood and Ongar):

To ask the Secretary of State for Social Services when he expects to publish the report of the Occupational Pensions Board on the greater security for occupational pension rights and expectations.

MR NORMAN FOWLER

The Occupational Pensions Board has sent me its Report on Greater Security for the Rights and Expectations of Members of Occupational Pension Schemes: its Report is being published today.

I would like to take this opportunity of thanking the Board for what is clearly a very thorough examination of the issues. In particular I would like to express my appreciation to the former Chairman of the Board, Lord Brimelow, for his achievement in securing the delivery of this valuable Report to me before he retired, within the time limit originally envisaged for the Report.

The Government welcome the recommendations in the Board's Report, in particular those concerning the disclosure of information to members. This is one of the most important ways of helping pension scheme members themselves to ensure that their schemes are managed in their best interests - a matter to which the Government attach the utmost importance. The Government therefore accept in principle the need for legislation to regulate this aspect of pension scheme management, and I shall be consulting interested parties about the content of such legislation. In addition a working party of officials is being set up to examine the law and conventions governing the conduct of pension funds. The Government will welcome representations from the public and from any organisation with an interest in the matters mentioned above and discussed fully in the Board's Report. It would be helpful if representations could be sent to my Department by the end of December 1982.....

INFORMATION WHICH OCCUPATIONAL PENSION SCHEMES WILL BE REQUIRED TO PROVIDE

(The detailed requirements and exemptions will be set out in regulations).

ANNUAL REPORTS

Scheme trustees will be required to make annual reports available to their members within 12 months of the end of the scheme year to which they relate. These reports must include the following information:-

a. Financial basis of the scheme.

A statement of the financial arrangements on which the scheme is based. This statement should distinguish between funded and unfunded benefits. Schemes holding insurance benefits must indicate the extent to which the life office guarantees the benefits promised in the scheme rules. It should show how pension increases are financed.

b. Audited accounts.

A set of audited accounts for the last complete scheme year of income and expenditure and of the end of year state of the fund with a comparison with the previous year. There should be a statement signed by the auditor that the rate of contribution agreed as satisfactory by the actuary has been maintained.

c. Auditor's report.

The auditor's report should include a summary statement of scheme assets and a note of the extent of any self-investment or other concentrations of investment of more than 5 per cent of assets.

d. Scheme investments.

A summary description of scheme assets showing insurance policies, unit trusts, gilts, equities, debentures, convertibles, loans and properties separately. There should be a separate list by the same categories showing

- i. any investment exceeding 5 per cent of the assets;

ii. any self-investment; and

iii. any investment not in sterling.

e. Borrowing.

A statement of any borrowing or guarantees given.

f. Actuarial statement.

An actuarial statement, which must be renewed at least every three years, showing a comparison between the scheme's current assets and its liabilities based on current salaries and service to date and also covering the long-term funding outlook. The statement would give brief details of the actuary's methods and assumptions.

g. Investment managers.

The names of investment managers and the remuneration they have received.

3.2 Simplified accounts would be accepted for individual arrangements and money purchase schemes. Trustees and employers will be required to take active measures to bring scheme annual reports to the attention of serving members. This requirement would clearly be satisfied if each member were sent a copy of the latest report. This, though, could prove unduly expensive or cause great practical difficulties. It will therefore be sufficient to meet the requirement if reports are displayed prominently on a main notice board or made available in some easily accessible place, such as a factory canteen. The members must be told where they can gain access to the report if they do not receive a personal copy. The annual reports must also be sent to the representatives of trade unions recognised to any extent in respect of the members of the scheme and also be available on request to all other categories of scheme members and beneficiaries and to the appropriate statutory authorities. Also they would have to be deposited with the scheme Registrar (paragraphs 28-30 of the consultative document).

13.8 ✓

OTHER INFORMATION

Schemes will be required to provide members with the following information:

- 4.7
- a. A record of past increases to pensions in payment and preserved pensions for the last five years.
 - b. The rights given to early leavers. This should cover their rights to transfers, the basis of the calculation of transfer payments and arrangements for refunds of contributions.
 - c. Details of trustees and where they can be contacted.
 - d. The rights of members, beneficiaries and spouses to information and to inspect the documents comprising the scheme (eg trust deed, scheme rules).
- 13.8 ✓
- e. Individual benefit statements should be made available for members, early leavers, people retiring and other beneficiaries.
- 4.5
?FREQUENCY

